

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

PURPLE TUNNEL ENTERPRISES, INC.,
ET AL.,

Plaintiffs

v.

CIVIL ACTION NO.:
04-10874-EFH

BEACON HALL, LLC, ET AL.,
Defendants.

ORDER

June 8, 2004

HARRINGTON, S.D.J.

Defendants must file a notice of removal within thirty (30) days of being served with the complaint. See 28 U.S.C. § 1446(b). When multiple defendants are involved, each defendant's consent to removal must be expressed "clearly and unambiguously to the Court within the statutorily prescribed thirty days." In re Pharmaceutical Indus. Average Wholesale Price Litig., 307 F.Supp.2d 190, 193 (D.Mass. 2004). In this case, it is conceded that one of the defendants, Erik Hall Mosher, was not mentioned in the text of the notice of removal that was filed by the other four defendants. Thus, Defendant Mosher did not clearly and unambiguously express his consent to removal. This "constitutes a defect in removal procedure and is grounds for remand." Sansone v. Morton Mach. Works, Inc., 188 F.Supp.2d 182, 184 (D.R.I. 2002). This case is therefore remanded to Massachusetts Superior Court, Suffolk County.

SO ORDERED.

/s/ Edward F. Harrington
EDWARD F. HARRINGTON
United States Senior District Judge